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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,529	09/21/2001	Benjamin Renaud	BEAS-01067US0	5297
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FLIESLER MEYER LLP 650 CALIFORNIA STREET 14TH FLOOR SAN FRANCISCO, CA 94108			EXAMINER VU, TUAN A	
			ART UNIT 2193	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/960,529

Applicant(s)

RENAUD, BENJAMIN

Examiner

Tuan A. Vu

Art Unit

2193

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 13-16, 19-28, 37, 38, 40-49, 55 and 56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 13-16, 19-28, 37, 38, 40-49, 55 and 56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2193

### **DETAILED ACTION**

1. This action is responsive to the Applicant's response filed 10/04/2007.

As indicated in Applicant's response, no claims have been amended. Claims 1-9,13-16, 19-28, 37-38, 40-49, 55-56 are pending in the office action.

#### ***Interview Summary and Affidavit under 37 CFR 1.312***

2. During the interview as per 10/15/07, the substance being discussed was about the validity of the Affidavit by which the Applicant claims authorship of the prior art reference of record. This reference by Weblogic Server, however, has no explicit author associated with it. In view of insufficient evidence that would help corroborate that the Applicant e.g. the name thereof) is reasonably included or conveyed in the process of creating or writing of such reference, the Examiner has been obliged as to not give the above affidavit some proper weight, lacking such proof as to determine otherwise. However, in the course of the interview, the Examiner had provided some alternatives whereby Applicant can convey satisfactory authorship of specific parts of the above reference (WebLogic Server 6.0 – WebLogic and BEA being the application Assignee) via legitimate facts showing how those parts were written by the Applicant or directed by Applicant in the creation thereof. That is:

The Examiner has suggested (i) a demonstrative exhibit showing mapping of work done by the inventor with parts of said BEA reference including clear explanation therefor signed by the inventor; or (ii) a statement by the assignee confirming that some part of the matter in such document falls under the inventor's own work.

Lacking the above indicated provision from the Applicant, the Office Action has to take the stand as to deny favorable merits to the above affidavit, i.e. not taking into consideration that the reference in question is truly the work of the Applicant. The following Office Action reflects the above standpoint.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1-9, 13-16, 19-28, 37-38, 40-49, 55-56 are rejected under 35 U.S.C. 102(a) as being anticipated by WebLogic Server 6.0, Deploying EJBs in the EJB Container, Programming WebLogic Enterprise JavaBeans, e-docs.bea.com, pp. 1-5, archive copy 4/17/2001 (hereinafter WLS6) URL:

<http://web.archive.org/web/20010417134926/http://e-docs.bea.com/wls/docs60/ejb/deploy.html>

**As per claim 1**, WLS6 discloses a method of automatically deploying an application across a distributed computing domain including a plurality of processing devices, the method comprising:

(a) automatically scanning for an undeployed application stored in an application directory accessible to at least one of the plurality of processing devices (*one or more ... Servers* – pg. 1, bottom), the application directory (Automatic Deployment Directory - pg. 2, bottom pg. 3, top) including at least one currently deployed application;

(b) recognizing an undeployed application in the application directory; and

(c) deploying the undeployed application (e.g. recompile ...redeploys - pg. 3, bottom, pg. 4, top) to a selected portion of the plurality of processing devices, such that the application is capable of being executed by the portion of the plurality of processing devices (e.g. Resources role names descriptor – pg. 2, top Note: resource identification of specific server reads

Art Unit: 2193

on selected portion of devices execution EJB application), wherein when the undeployed application is placed in the application directory it is automatically deployed without requiring any other user step ( Note: automatically checking jar xml directory for redeploying reads on without user intervention).

**As per claims 2-3**, WLS6 discloses

obtaining a list of applications stored in the application directory (weblogic-ejb-jar.xml – pg. 2, top); comparing the list of applications stored in the application directory to a list of previously deployed applications (ejb-jar.xml pg. 4) in order to select the application to be deployed; and deploying the selected application to the selected portion of the plurality of processing devices;

selecting the application to be deployed from the list of applications stored in the application directory when the application is absent from the list of previously deployed applications (e.g. *it is automatically redeployed* – pg. 2, bottom – Note: redeploying reads on absent from previously or currently deployed list).

**As per claims 4-5**, WLS6 discloses selecting the application to be deployed from the list of applications stored in the application directory when the value of a deployment indicator associated with the application differs from the value of a deployment indicator recorded on the list of previously deployed applications (e.g. weblogic-ejb-jar.xml: *caching descriptor, reference descriptor, persistence descriptor, resource descriptor* -- middle pg. 2 – Note: descriptor in xml related to a deployment related jar file, i.e. indicative of state of deployment or change in JAR – see pg. 3, middle; *timestamp* - pg. 4, bottom – reads on checking on deployment metadata stored

Art Unit: 2193

as descriptor inside the *ejb-jar.xml* file), wherein the deployment indicator is an attribute of a file containing the application (See Descriptor from above).

**As per claims 6-8**, WLS6 discloses attribute of the file containing the application is the date (directory - pg. 4, middle; *timestamp* - pg. 4, bottom— Note: directory inherently includes file properties with date and time of modification/creation) of the file, the deployment indicator is an attribute (see *jar Directory* – pg. 4, middle; *Meta-INF directory*, pg. 4, top – Note: triggering a redeployment based on timestamp of a session- related bean via reading a xml file r or meta-inf reads on attribute of another ejb file related to some timestamp) of a file associated with at least one separate file containing the application, wherein the attribute is the date of the file.

**As per claim 9**, WLS6 discloses wherein the selected portion of the plurality of processing devices is determined from an analysis of a plurality of attributes associated with the undeployed application and a plurality of attributes associated with the distributed computing domain (see clustering, resources descriptor pg. 2, middle ; see Automatic Deployment pg. 3-4).

**As per claims 13-14**, WLS6 discloses the step of scanning is initiated periodically after the passage of a predetermined time interval (e.g. every ten seconds – pg. 2, bottom) wherein the undeployed application is comprised of a plurality of application components contained in a single file (jar files – pg. 2, bottom)

**As per claims 15-16**, WLS6 discloses that the undeployed application is comprised of a plurality of application components each contained in a separate file (refer to claim 14) wherein the undeployed application is a J2EE application (see *weblogic-ejb-jar.xml* –pg. 2).

Art Unit: 2193

As per claim 19, WLS6 discloses a method of automatically maintaining an application object across a distributed computing domain, the application object contained within at least one application file and the distributed computing domain including a plurality of processing devices (refer to claim 1), the method comprising the steps:

- (a) retrieving a list of all of the application files located within an application directory;
  - (b) comparing the list of all of the files located within an application directory to a list of all of the files associated with currently deployed application objects;
  - (c) for each application file, deploying the application object contained in the application file when the application file is absent from the list of all the files associated with currently deployed application objects;
  - (d) for each application file, redeploying the application object contained in the application file when the application file differs from the corresponding file on the list of all of the files associated with previously deployed application objects ( refer to claim 2-3 –Note: comparing from list of currently deployed or absent therefrom for redeployed are limitation steps that been addressed in claims 2-3).
- ); and

(e) for each application file on the list of all of the files associated with currently deployed application objects, undeploying the application object associated with an application file when the application file on the list of all of the files associated with currently deployed application objects is absent from the list of all of the application files located within the application directory (see pg. 2, bottom, pg. 3, middle – Note: redeploying application because of

Art Unit: 2193

a changed jar file to replace an older jar file reads on undeploying an older jar-related files when the directory only dictates deployment an updated jar file)

wherein when the undeployed application is placed in the application directory it is automatically deployed without requiring any other user step; wherein when the application is removed from the directory it is undeployed without any other user action ( Note: automatically checking jar xml directory for redeploying reads on without user intervention).

**As per claim 20**, WLS6 discloses wherein:

in the step of redeploying, the difference is determined by comparing the value of a deployment indicator associated with an application file with the value of a deployment indicator recorded on the list of currently deployed application objects (Note: refer to claim 4 and claim 9 for corresponding subject matter and rejection).

**As per claims 21-27**, the subject matter of these claims correspond to that of claims 5-8, 13 and 16 (for J2EE of claims 26-27) respectively, hence will be rejected with the respective rejection as set forth therein.

**As per claim 28**, see WLS6: Weblogic server, pg. 1-2.

**As per claims 37-38**, WLS6 discloses an article of manufacture including an information storage medium wherein is stored information, the information comprising:

a group of processor readable instructions adapted to operate on a processing device, wherein the group of processor readable instructions are adapted to operate the processing device according to the method of Claim 1 (refer to claim 1, and 19).

**As per claim 40**, WLS6 discloses a processing system including at least a first processing device and a memory device accessible by the first processing device, the processing



Art Unit: 2193

system comprising a group of processor readable instructions stored in the memory device and operating the first processing device ( Weblogic Server, pg. 1) to perform a group of steps including:

(a) automatically scanning for an undeployed application stored in an application directory accessible to first processing device, the application directory including at least one currently deployed application;

(b) recognizing an undeployed application in the application directory; and

(c) deploying the undeployed application to a selected portion of the processing system, such that the application is capable of being executed by the portion of the processing system (refer to claim 1 for corresponding rejection)

wherein when the undeployed application is placed in the application directory it is automatically deployed without requiring any other user step ( Note: automatically checking jar xml directory for redeploying reads on without user intervention).

**As per claim 41**, WLS6 discloses a first computer ( Weblogic server pg. 1)

**As per claims 42-43**, WLS6 discloses including a second processing device in communication with the first processing device, wherein the selected portion of the processing system includes the second processing device (e.g. automatic deployment, directory, pg. 2-4 – Note: the JAR scanning and selection of application files based on the XML file to be redeployed– or first processing device- in conjunction or communication with the redeployment process, i.e. a second processing device, itself in the same environment, reads on to selected portion including a second processing device; i.e. both the first processing device and the second processing device are located on a first compute) where the selecting for deployment and the

Art Unit: 2193

deployment process is executed on the same server machine, WLS6 has disclosed the first processing device and the second processing device are located on a first computer.

**As per claim 44**, WLS6 discloses the first processing device is located on a first computer and the second processing device is located on a second computer (*one or more ... Servers* – pg. 1, bottom).

**As per claim 45**, WLS6 discloses a processing system including at least a first processing device and a memory device accessible by the first processing device, the processing system comprising a group of processor readable instructions stored in the memory device and operating the first processing device to perform a group of steps as they are recited in claim 19 (refer to claim 1 for corresponding rejection)

**As per claims 46-49**, the subject matter of these claims corresponds to that of claims 41-44, hence is rejected with the respective rejection as set forth therein.

**As per claim 55**, WLS6 discloses a computer-implemented method for deploying applications to an application server comprising:

automatically deploying an application to an application server when the corresponding unpackaged application files are added to a smart directory; and

automatically undeploying the application application files are removed from the smart directory (see pg. 2-4 and refer to claim 1; see pg. 2, bottom, pg. 3, middle – Note: redeploying application because of a changed jar file to replace an older jar file reads on undeploying an older jar-related files when the directory only dictates deployment an updated jar file).

wherein when the undeployed application is placed in the application directory it is automatically deployed without requiring any other user step; wherein when the application is

Art Unit: 2193

removed from the directory it is undeployed without any other user action ( Note: automatically checking jar xml directory for redeploying reads on without user intervention).

As per claim 56, WLS6 discloses wherein the unpackaged application files are automatically packaged (*repackaging* – pg. 3, bottom, pg. 4 top) before they are provided to the application server.

### ***Response to Arguments***

5. Applicant's arguments filed 10/04/07 have been fully considered but they are not persuasive. Following are the Examiner's observation in regard thereto.

The affidavit for showing that the actual subject matter of BEA web pages provided as the WebLogic Server reference is derived from the inventor amounts to just a empty 'showing' without substantial and otherwise satisfactory provision of evidence. No explicit authorship is listed for the Weblogic reference and there is ground to believe that authorship of the reference/article is not the name of the inventor when the above Weblogic reference is being made available online. Accordingly, proof showing of authorship can only come from facts, and more necessarily so, authorship of said article/document (used as 102a type of reference) has to be provided as burden of the inventor/applicant, he who claims being the person from which the reference has been derived. Absent such satisfactory provision, the above affidavit cannot be accepted because it fails to support what is referred to above as 'showing'. Refer to MPEP § 716.10 - Attribution: "... *it is incumbent upon the applicant to provide a 'satisfactory showing that would lead to a reasonable conclusion that [applicant] is the ... inventor' of the subject matter disclosed in the article...*" The Affidavit is not accepted until further showing of facts are filed and duly evaluated.

Art Unit: 2193

Pending such showing of facts, the claims will stand rejected as set forth above.

*Conclusion*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A Vu whose telephone number is (571) 272-3735. The examiner can normally be reached on 8AM-4:30PM/Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571)272-3756.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3735 ( for non-official correspondence - please consult Examiner before using) or 571-273-8300 ( for official correspondence) or redirected to customer service at 571-272-3609.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tuan A Vu  
Patent Examiner,  
Art Unit 2193  
November 15, 2007